

Message Text

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44

ORIGIN EA-14

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DRAFTED BY EA/ ROC: MEMCDONNELL: BDS

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APPROVED BY EA/ ROC: MEMCDONNELL

L/ EB - MR. WILLIS (SUB)

TRY/ OS - MR. DAVIES

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FM SECSTATE WASHDC

TO AMEMBASSY TAIPEI

C O N F I D E N T I A L STATE 082578

E. O. 11652: GDS

TAGS: TW, ETRN, EFIN

SUBJECT: FLYING TIGER/ CAL TAX LIABILITY

REF: TAIPEI 2353

1. GEORGE PENDLETON, LOCAL ATTORNEY FOR CHINA AIRLINES
INQUIRED IN 1972 ABOUT CAL LIABILITY TO TAXATION BY
DISTRICT OF COLUMBIA. EA/ ROC INFORMED HIM ORALLY JULY 24,
1972 THAT, IN VIEW OF LEGAL ADVISER'S OFFICE, OPINION
OF DC GOVERNMENT WAS PROBABLY CORRECT. M. M. LIPTON OF
DC DEPARTMENT OF FINANCE AND REVIEW HELD, IN LETTER OF
MAY 16, 1972, TO RICHARD TONG, C. P. A., TONG AND TONG,
SAN FRANCISCO, THAT TITLE III, SECTION 2(B)(7) OF DC
INCOME AND FRANCHISE TAX LAW EXEMPTS INCOME OF ANY KIND
TO EXTENT REQUIRED BY ANY TREATY OBLIGATION OF UNITED
STATES. HOWEVER, AMERICAN AMBASSADOR'S NOTE OF FEBRUARY 8,
1972 TO ROC FOREIGN MINISTER PROVIDES THAT USG SHALL,
ON BASIS OF EQUIVALENT EXEMPTIONS GRANTED BY GRC,
EXCLUDE FROM GROSS INCOME AND EXEMPT FROM INCOME TAX THE
EARNINGS OF ROC CITIZENS AND CORPORATIONS FROM OPERATION
OF SHIPS DOCUMENTED AND AIRCRAFT REGISTERED UNDER ROC
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LAWS, IN ACCORDANCE WITH SECTIONS 872(B) AND 883(A) OF INTERNAL REVENUE CODE OF 1954. HOWEVER, THE EXCHANGE OF NOTES IS AN INTERPRETATION OF SECTIONS OF IRC AND DOES NOT CONSTITUTE A TREATY OBLIGATION. DC GOVERNMENT CONCLUDED THEREFORE THAT SINCE INCOME IS EXEMPT UNDER IRC

AND NOT BY TREATY, CAL WOULD BE SUBJECT TO DC FRANCHISE TAXES.

2. BECAUSE MATTER IS COMPLEX, DEPARTMENT ADVISED PENDLETON TO CHECK DC TAX TREATMENT OF OTHER AIRLINES AND INQUIRE WHETHER FACT THAT CAL IS NOT LOCATED IN DC HAS BEARING; WE SUGGESTED THAT ROC EXPLORE POSSIBILITY OF RESOLVING PROBLEM THROUGH DOUBLE TAXATION CONVENTION, NOW UNDER NEGOTIATION.

3. EA/ ROC CANNOT FIND OM REFERRED TO IN TAIPEI 1804. PENDLETON HAS NEVER MENTIONED PROBLEM RELATING TO FLY-ING TIGER. IF ABOVE INFORMATION DOES NOT ANSWER QUESTION RAISED IN OM, PLEASE REPEAT SUBSTANCE OF OM BY CABLE.

ROGERS

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NMAFVVZCZ

*** Current Handling Restrictions *** n/a

*** Current Classification *** CONFIDENTIAL

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